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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/483,574	06/07/95	HOLMES	B 2657-21-3

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33M1/0621

O,K EXAMINER	
ART UNIT	PAPER NUMBER
3308	

DATE MAILED:

06/21/96

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Office Action Summary

Application No.

08/483,574

Applicant(s)

Holmes et al.

Examiner

Ki O

Group Art Unit

3308



☒ Responsive to communication(s) filed on Jun 7, 1995

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire _____ month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-33 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-33 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Part III DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-14 are drawn to a disposable for an apheresis system comprising a blood processing vessel and a support, classified in Class 494, subclass 18.

Group II. Claims 15-25 are drawn to disposable for an apheresis system comprising a blood processing vessel, first and second radially spaced sidewalls, a blood inlet port, means for directing blood through the inlet port, and an outlet port, classified in Class 494, subclass 18.

Group III. Claims 26-30 are drawn to a disposable for an apheresis system comprising a blood processing vessel, a whole blood inlet port, and a first tab, classified in Class 494, subclass 18.

Group IV. Claims 31-33 are drawn to a disposable for an apheresis system comprising a blood processing vessel, first and second ends, a first connector, a second connector, a blood inlet port, and a first blood component outlet port, classified in Class 494, subclass 18.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions of Groups I, II, III, and IV are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations. (M.P.E.P.

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§ 806.05(c)). Each of the Groups claims a disposable for an apheresis system comprising a blood processing vessel. However, each of the Groups have elements different from each other as shown by the differentiation above. Each of the Groups has a separate utility such as blood separation devices, hemodialysis devices, blood collection devices, blood reinfusion devices, any apparatus that withdraws blood and processes it.

3. Inventions of each Group are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In this case, each of the independent claims 1, 15, 26, and 31 has necessary elements unique to each Group. For instance, Claim 1 claims a support associated with said blood-related port which is not claimed in the other independent claims. Each of the Groups can be a disposable in many type of blood processing systems, including hemodialysis systems. See M.P.E.P. § 806.05(d).

4. Because these inventions are distinct for the reasons given above and the search required each Group is different, restriction for examination purposes as indicated is proper.

5. A telephone call was made to Thomas R. Marsh on 6/18/96 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of

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the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ki O whose telephone number is (703) 308-2681.

Ki Yong O
kyo
June 19, 1996


DAVID H. WILLSE
PRIMARY EXAMINER
GROUP 3300